

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

2:09-CR-78 JCM (RJJ)

Plaintiff,

V.

SAMUEL DAVIS and SHAWN RICE,

Defendants.

ORDER

Presently before the court is the government's motion to dismiss the third-party petition of Charles and Victoria Tingler. (Doc. #203). Charles and Victoria Tingler ("the Tinglers") did not file an opposition. The government then filed a notice of non-opposition. (Doc. #216).

On May 27, 2011, the Tinglers filed a third-party claim for a portion of the seized funds in this case. (Doc. #194). The government moved to dismiss their complaint on October 27, 2011, arguing that the Tinglers lacked standing to bring suit pursuant to 21 U.S.C. § 853(n). (Doc. #203).

Under Nevada Local Rule 7-2(d), “the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion.” However, the court will not automatically grant every unopposed motion. In *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995), the Ninth Circuit held that the court had to weigh the following factors before dismissing the action: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice; (4) the public policy favoring disposition of cases on the merits; and (5) the availability of less drastic sanctions.

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1 The court finds that the *Ghazali* factors weigh in favor of dismissing the Tinglers' third-party
2 petition. *See Ghazali*, 46 F.3d at 53.

3 || Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that government's motion to
5 dismiss the third-party petition of Charles and Victoria Tingler (doc. #203) be, and the same hereby
6 is, GRANTED.

7 DATED January 6, 2012.

James C. Mahan

UNITED STATES DISTRICT JUDGE